



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**Agenda**

**Meeting of April 21, 2004**

10:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

**ROUTINE BUSINESS**

**1. Ratification of minutes of March 10, 2004 meeting**

**NEW BUSINESS**

**2. Representative Kevin Glynn**

Representative Glynn has posed two questions informally to the Commission staff. (1) If a candidate who is participating in the Maine Clean Election Act purchases goods and services for the general election before the primary election, do the advance purchases reduce the amount of public funds paid to the participating candidate for the general election? (2) If a non-participating candidate incurs expenses in organizing a fundraiser, should the candidate be able to reduce the receipts reported to the Commission – which could trigger matching funds to an opponent – by the amount of the expenses? Rep. Glynn is expected to submit a letter or to make a presentation to the Commission in order to elaborate on these questions.

**3. Declaration of Intent Filed Before Qualifying Contributions**

Representative Sean Faircloth began collecting \$5 qualifying contributions before he filed his Declaration of Intent (DOI) on March 23, 2004. Under the policy of the Commission staff, the \$5 checks he accepted prior to filing the DOI would not count toward the requirement of collecting 50 qualifying contributions.

The staff policy is based on a provision in the Maine Clean Election Act stating that “[a] participating candidate must submit a declaration of intent prior to collecting qualifying contributions under this chapter” (21-A M.R.S.A. 1124(3)) and Chapter 3, Section 3(2)(B) of the Commission Rules, which requires the Declaration of Intent to include “an affirmation that the candidate has not accepted any qualifying contributions before signing the Declaration of Intent.” (Emphasis added.)

Representative Faircloth asks that the \$5 checks he accepted before filing the DOI be counted toward the requirement of 50 qualifying contributions. His rationale, as stated previously to the Commission director, is that he openly began fundraising as a Maine Clean Election Act candidate through the mailing of a flyer to his supporters requesting

\$5 qualifying contributions; on March 7 he informed the Commission staff that he intended to run as a Maine Clean Election Act candidate when he requested advice from the Commission director on a draft version of his fundraising flyer (attached); and he acted in good faith at all times.

Correspondence with Representative Faircloth, including the relevant legal provisions, is attached, along with two cases in which the Commission considered similar requests.

### **Requests for Waivers of Seed Money Requirements**

Candidates participating in the Maine Clean Election Act may accept limited private contributions (seed money) at the beginning of the campaign. In order to be eligible to receive public financing, the seed money contributions must meet the following requirements: (1) the contributions must be from individuals; (2) no individual may contribute more than \$100 to a candidate; (3) the maximum amount of seed money a candidate may collect is \$500 for a House candidate and \$1,500 for a Senate candidate; (4) the total that a candidate may spend (including both payments made and outstanding debts) cannot exceed the amount of seed money collected.

A number of candidates unintentionally have failed to comply with these requirements. Under Chapter 3, Section 3(E) of the Commission Rules, the Commission may grant a waiver of these requirements for unintentional non-compliance so that the candidate may be eligible to receive public funds. (The rule is attached as part of Agenda Item #4.)

### **4. Expenditures and Debt in Excess of Seed Money Collected – Rep. Robert Berube**

Representative Robert Berube, a candidate for re-election to the House, has requested certification as a Maine Clean Election Act candidate. He collected \$500 (the maximum for a House candidate) in seed money and used \$490 of it toward a purchase of political signs. The total cost of the signs was \$921.83. Accordingly, in his seed money campaign finance report (attached), Rep. Berube reported that he had an outstanding debt of \$431.83 to the print shop.

The policy of the Commission staff is that the total amount of a candidate's expenditures *and obligations* cannot exceed the amount of seed money contributions collected. This policy has been based on the statutory provisions stating that obligations are expenditures, and that "a candidate may collect and spend only seed money contributions ... during the qualifying period." (Emphasis added.) 21-A M.R.S.A. §1125(9).

Rep. Berube has stated that his intention was to comply with the seed money restrictions and that he was unaware of the Commission policy that a candidate's debts could not exceed seed money collected. Rep. Berube stated that he made a large purchase of signs in order to obtain more advantageous pricing. If he purchased at least 300 signs, he paid the unit price of \$1.92 per sign. If he purchased fewer than 300 signs, he would have had to pay more than \$3.00 per sign. Rep. Berube is expected to make a presentation to the Commission.

The Commission staff recommends a waiver of the seed money restriction in this case, because the Representative acted in good faith and because the policy that expenditures (including debts) may not exceed contributions has not been publicized other than in informal conversations between Commission staff and candidates seeking advice.

**5. Expenditures and Debt in Excess of Seed Money Collected – George Jacobson**

George Jacobson, a candidate for the Senate, raised \$1,500 in seed money and made payments of \$1,418.90. In addition, as Mr. Jacobson explains in the attached e-mail, he volunteered to compensate his campaign manager \$600 for his services during the campaign. This was reported as an outstanding liability to the campaign manager in the amount of \$600.

His total payments and debt have exceeded the seed money he collected. The candidate states that he was unaware of the restriction, and he requests a waiver. The Commission recommends granting the waiver.

**6. Seed Money Contributions in Excess of \$500 – Linda Petrie**

Linda Petrie is a candidate for the House. She has submitted the attached letter stating that her husband temporarily assumed the responsibilities of treasurer, because the campaign's treasurer was out of town due to her husband's emergency surgery. The candidate's husband deposited \$540 in contributions, which exceeded the maximum \$500 amount. When he learned of his mistake, he returned \$40 to a contributor. The Commission recommends granting a waiver of the seed money requirements in this case.

**7. Seed Money Contributions in Excess of \$500 -- Timothy Carter**

Timothy Carter, a candidate for the House, explains in the attached e-mail that he raised seed money contributions by e-mailing several friends across the country. He received a check for \$100 from his friend Wayne Thurston in Las Vegas, Nevada. He states that he wished to accept only \$65 of the contribution, so he cashed the \$100 check and returned \$35 to the contributor. He believed that this was the honest way to accept the maximum amount of seed money contributions (\$500). The deposit of the contribution technically caused his accepted contributions to exceed \$500. The Commission staff requests a waiver of the seed money requirements.

**8. Seed Money Contributions in Excess of \$500 – Rep. Jeffrey Kaelin**

Rep. Jeffrey Kaelin, a first-time participant in the Maine Clean Election Act, unintentionally made expenditures that exceeded the \$500 maximum by \$12.31. He has met the other eligibility requirements to be certified as a Maine Clean Election Act candidate. Because of his status as a first-time participant, the small amount of money involved, and the unintentional nature of the error, the Commission staff recommends granting a waiver of the seed money requirements.

**9. Acceptance of Seed Money Contribution from Source Other than an Individual – Don Pilon**

Candidates wishing to become eligible for Maine Clean Election Act funding may collect seed money contributions only from individuals. Unaware of this restriction, candidate

Don Pilon accepted a seed money contribution from the campaign account of Representative David Lemoine. (See attached letter.) Once the Commission staff informed Mr. Pilon of the error, he returned the funds to Rep. Lemoine's campaign and accepted a replacement contribution from Rep. Lemoine's personal funds. The staff recommends granting Mr. Pilon a waiver of the seed money restrictions.

#### **10 Recommendation of Adoption of Final Rules**

On February 11, 2004, the Commission provisionally adopted rule amendments for consideration by the Legislature. The Legislature directed the Commission to further amend the rule relating to purchases made prior to a primary election for use in the subsequent general election. A memorandum and relevant materials are attached. The staff recommends final adoption of the rules as amended by the Legislature. In addition, the staff suggests sending the attached draft memorandum to educate candidates and PACs on the policy that will be in effect for the 2004 elections.

#### **Penalty Determinations**

##### **11. Naomi Schalit**

Monthly Lobbyist Report for one employer

Due 3/15/04; filed 3/18/04 – 3 days late

Statutory penalty: \$100

*Staff Recommendation:* \$50 (50% reduction because of no previous late filing)

##### **12. Karen Brown-Mohr**

Monthly Lobbyist Reports for three employers

Due 3/15/04; filed 3/16/04 – 1 day late

Statutory penalty: \$300

*Staff recommendation:* No civil penalty. Ms. Brown-Mohr went to Florida right after hearing that her father was in a car accident. The Commission is authorized to grant a full or partial waiver in the case of a “valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty.”

##### **13. Other**

Miscellaneous as needed.

#### **EXECUTIVE SESSION**

If necessary.

#### **ADJOURNMENT**